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Employing Appropriate

Contract Types

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Why are we here?

"Better Buying Power's goal was, as we said, to do more without more. That is, to get more capability for the warfighter and more value for the taxpayer by obtaining greater efficiency and productivity in defense spending -- what economists call productivity growth." Deputy Secretary of Defense Ashton B. Carter (November 13, 2012)

"…A personal observation is that our workforce have tended to look for school solutions, you know, what's the right answer, I'll do that, that's what leadership wants. And that was the kind of reaction we got to some extent to Better Buying Power 1.0. So the message here is, you've got to think about what the right kind of contract is to use for the thing you want to do." Under Secretary of Defense for Acquisition, Technology, and Logistics (AT&L) Frank Kendall (November 13, 2012)

Fiscal Uncertainty led to BBP 1.0

Lessons Learned from BBP 1.0 + Continued Economic Uncertainty + Sequestration + continued Warfighter Needs….

Led to BBP 2.0 and the unending demand and need to: "**Do More Without More**"

Objectives

- Evolution of the Better Buying Power (BBP) Initiatives
- Ensuring “Best Value”
  - Selecting the Appropriate Methodology
  - Employing Appropriate Contract Types
- Industry Interpretation and Response
- Question & Answer Session

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Evolution of BBP Initiatives

BETTER BUYING POWER 1.0

- Target Affordability and Control Cost Growth
- Incentivize Productivity & Innovation in Industry
- Promote Real Competition
- Improve Tradecraft in Services Acquisition
- Reduce Non-Productive Processes and Bureaucracy

Program, Inward Facing Focus

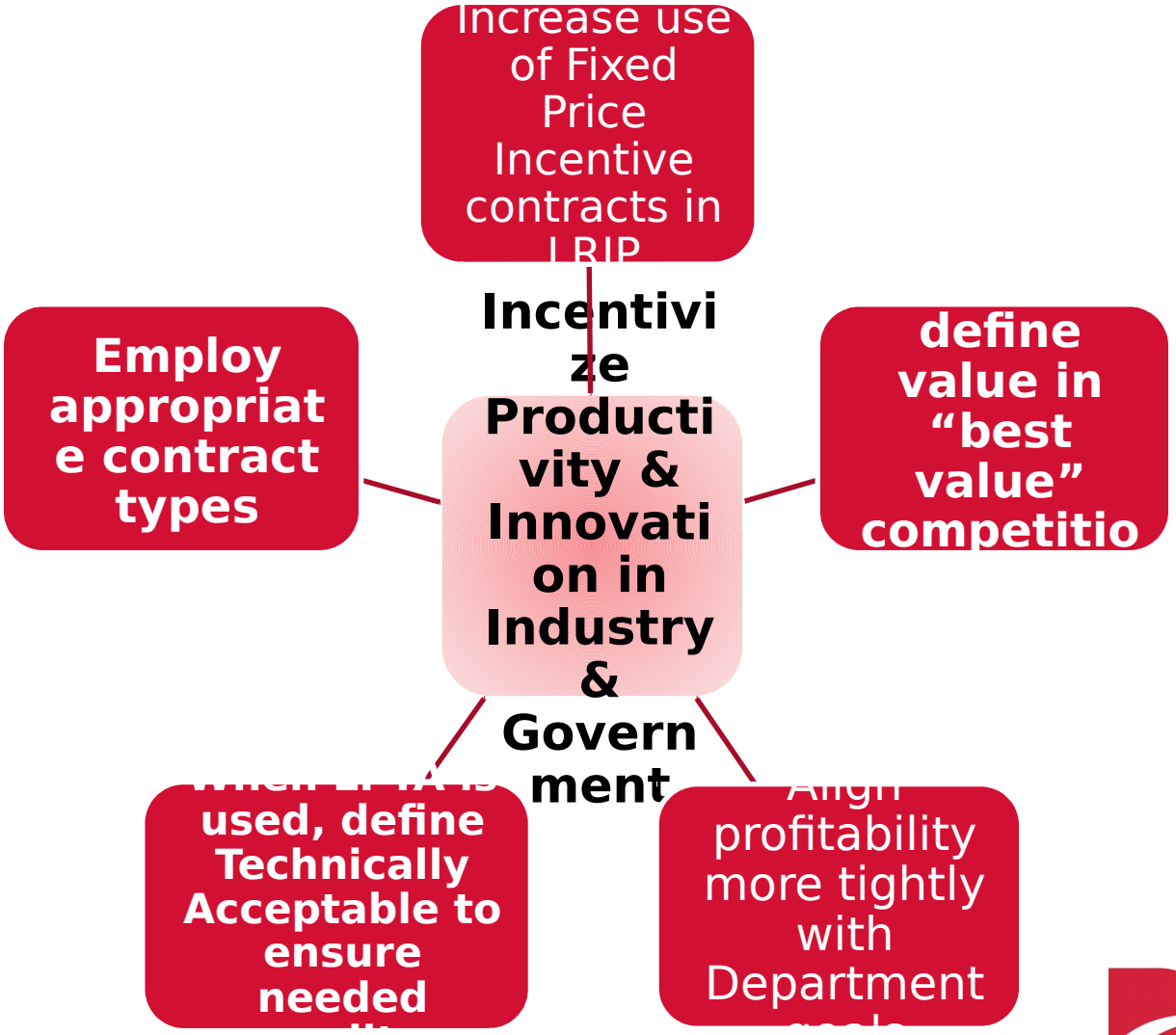
BETTER BUYING POWER 2.0

- Achieve Affordable Programs
- **Incentivize Productivity & Innovation in Industry & Government**
- Promote Effective Competition
- Improve Tradecraft in Services Acquisition
- Eliminate Unproductive Processes and Bureaucracy
- Control Costs Throughout Product Lifecycle

Holistic, Outward Facing Focus

How will DAU Assist DOD Agencies in Transitioning and Implementing the BBP 2.0 Initiatives?

Evolution of BBP Initiatives cont.


Increase use of Fixed Price Incentive contracts in LRIP
Employ appropriate contract types
Incentivize Productivity & Innovation in Industry & Government
define value in "best value" competitio
used, define Technically Acceptable to ensure needed
profitability more tightly with Department

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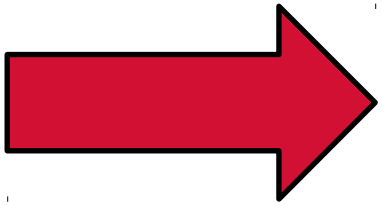
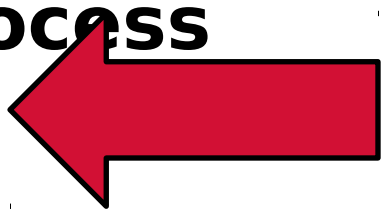
Selecting the Appropriate Methodology

FAR 15.501 Best Value Continuum - An agency can obtain best value in negotiated acquisitions by using any one or a combination of source selection approaches

LPTA



Goal: Best Value



Trade-off Process

The challenge: When LPTA is used, define Technically Acceptable to ensure needed quality.

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Defining "Technically Acceptable"

- **The standards for technical performance should be precisely defined to set the bar sufficiently high to permit industry to compete on price**
  - **i.e. , "acceptable" rating = an offeror meets appropriately rigorous standards**
  - **Carefully drafting the technical factors/subfactors will ensure only truly competent offerors are**

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GAO Case B-406894.2
Building Solutions, Inc

RFP stated award would be made to the offeror with the lowest priced, technically acceptable proposal that had received a past performance rating of substantial confidence.

RFP provided the following evaluation factors: price, technical acceptability and past performance

Contractor	Technically Acceptable	Past Performance	Price
NSR	Yes	Limited Confidence	$9,873,822
BSI	Yes	Satisfactory Confidence	$10,115,232
JDD	**Yes**	**Substantial**	**$10,140**

Employing Appropriate Contract Types

- Contract types tend to fall in and out of favor
  - GAO reports, Washington Post articles, political climate, etc., prompts policy change limiting use.
- All FAR Part 16 contract types are effective at risk allocation/mitigation and incentivizing contractor performance if:
  - properly selected for the situation, and
  - properly executed

Training is Key!

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Employing Appropriate Contract Types cont.

Factors to Consider in Selecting the Appropriate Contract Type

Firm requirements

Low technical risks

Qualified suppliers

Financial capability to absorb overruns

Motivation to continue

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Employing Appropriate Contract Types cont'd
Fixed Price

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Employing Appropriate Contract Types cont'd
Fixed Price

Advantages:

- Adds simplicity and cost efficiency
- Establish a price that is not subject to adjustment based on the contractor's costs.
- Place all risk and responsibility for cost on the contractor, maximizing the contractor's incentive to control costs.
- Reduce the administrative burden on the government by

Disadvantages:

- The inability to predict changing requirements
  - The Government can miss out on savings associated with changes in requirements
  - May actually spend more and incur additional administrative burden.
  - When work requirements grow or decline unexpectedly, funding is reduced, or

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Employing Appropriate Contract Types cont'd.
Cost Reimbursement Contracts

Major reason for use is the inability to accurately estimate costs; Typically resulting from:

- The lack of knowledge of the work needed to meet the requirements of the contract, for example, under research contracts, which necessarily involve substantial uncertainties
- in performing work, such as the development of a weapons system where manufacturing techniques and specifications are not stable enough to warrant contracting on a fixed-price

Employing Appropriate Contract Types cont'd.
Cost Reimbursement Contracts

Advantages

- In contrast to a fixed-price contract, a cost-plus contractor has little incentive to cut corners.
- A cost-plus contract is often used when long-term quality is a much higher concern than cost.
- Final cost may be less than a fixed price contract because contractors do not have to inflate the price to

Disadvantages

- There is limited certainty as to what the final cost will be.
- Requires additional oversight and administration to ensure that only permissible costs are paid and that the contractor is exercising adequate overall cost controls.
- Properly designing award or incentive fees also requires additional administration.

FFP contracting is not always appropriate

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Decisions Matter: Industry Response to Government Contracting Methodologies

Presented by:
John Fallon, PhD
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Objectives

- **Explore a Government requirement**
- **Discuss how the framework of the Government's request impacts Industry's response**

Duties of the Government

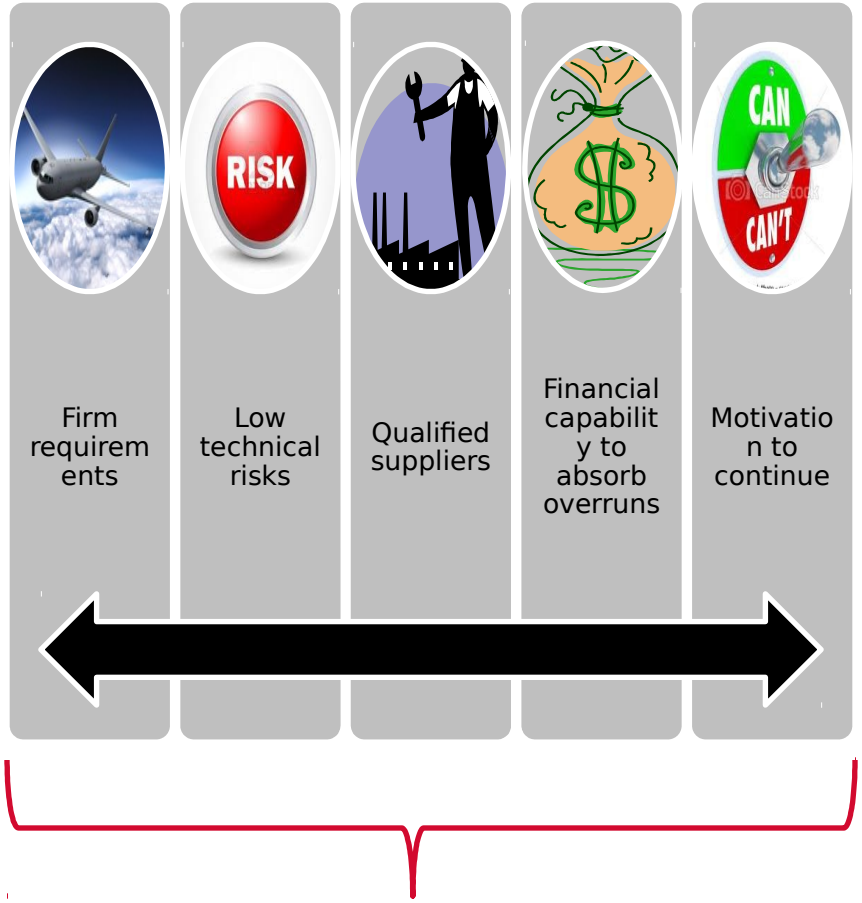
- **BBP 2.0 charges the Government (along with Industry) with the duty to act in a thoughtful & innovative manner in all acquisitions**

- **Before releasing a Request (RFP, RFQ, etc.), it is imperative to ask the important questions:**

- **Are there qualified suppliers for the requirements I intend to issue?**
  - **Are there any specialized skills required to complete this work (Trade Off vs. LPTA)?**
  - **Do I have firm requirements (Fixed Price vs. Cost)?**
  - **Are the Government's expectations clearly defined to keep technical risk low and avoid overruns (Fixed Price vs. Cost)?**
  - **To the greatest extent possible, have I built time into the proposal period for clarifications?**
  - **Does my overall contracting strategy motivate the contractors to continue to participate and provide a viable proposal (Fixed Price vs. Cost)?**

Scenario

- **The Business Development Team at ABC Services Corp (ABC) is conducting its daily review of the FedBizOpps solicitations, in hopes of finding a request that matches the services it provides. A posting from the Department of X piques the interest of the team.**
- **The Department wishes to supplement its current staff in order to expedite the compilation of market research relative to a series of initiatives established.**
- **The Statement of Work requests potential Offerors to propose the relevant staffing in order to provide a deliverable to the Department. In pertinent part, the SOW is defined in 3 parts:**
- **<u>Market Review</u>: Contractor shall assess the market in the various service commodity areas to assess what companies are qualified to do work with the Government and provide their products to a US Base installation in Nation X.**
- **<u>Market Interest</u>: Survey the identified companies to assess their capabilities, past performance, financial capacity, and interest in doing business with the Government.**
- **<u>Market Assessment Report</u>: Contractor shall provide a report of its findings to the Department within 4 weeks of award. The report shall be issued electronically in the Microsoft Word format. The report shall identify:**
  - **Current Government Standing**
  - **Past Performance**
  - **Experience providing services to Nation X**
  - **Interest in doing work with the Department**



Contract Type??

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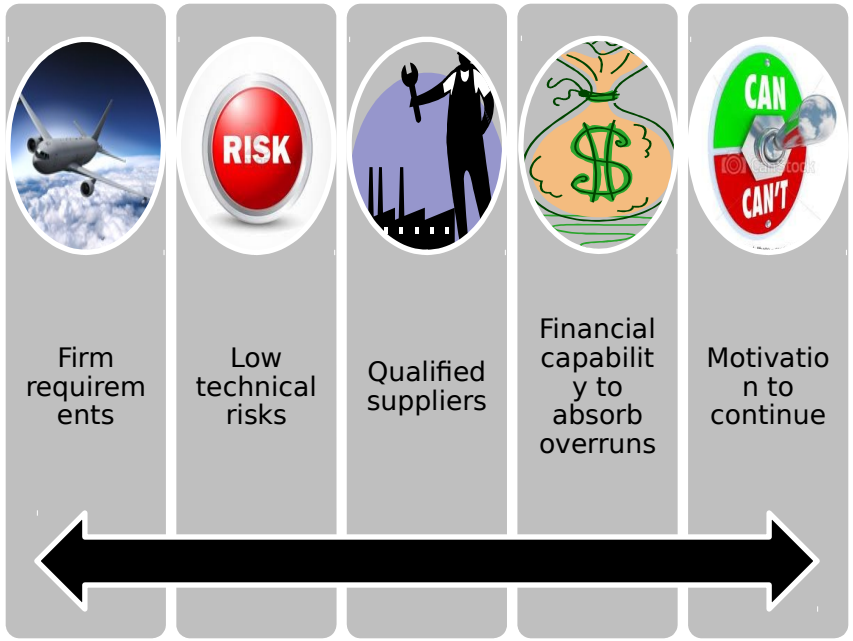
The Value of Q&A

- Ensuring that a Q&A session is included in your bid period is recommended
- It gives the offerors the opportunity to ask questions in a way the Government may not have originally considered
- It provides the Government with another opportunity to review and ensure that its requirements are clearly defined

Questions from Industry	Government's Responses
1. What specific service areas does the Government intend to have researched?	1. Office furniture, widget manufacturing, and construction equipment
2. Does the Government intend to provide any historical data on previous suppliers for the assessment or should the Offeror anticipate the need to provide expertise in place of receiving information from the Government?	2. This assessment shall be conducted based on, Attachment A, which has been incorporated into this solicitation by Amendment, titled "Department X's Comprehensive Potential Offeror List, 2005-2012."
3. Has the Government determined how many companies need to be provided in the assessment, and, if not, when will that decision be made?	3. The report shall identify ten (10) companies per commodity area
4. What are the metrics required for the past performance assessment?	4. Each past performance assessment should include three (3) projects completed within the commodity area being assessed within the past five (5) years

Amended Requirements

- **The Statement of Work requests the Offerors to propose the relevant staffing in order to provide a deliverable to the Department. In pertinent part, the SOW is defined in 3 parts:**
- **<u>Market Review</u>: Contractor shall assess the market in the office furniture, widget manufacturing, and construction equipment service commodity areas to assess what companies are qualified to do work with the Government and provide their products to the US Air Force installation in Belize. This assessment shall be conducted based on, *Attachment A*, titled "Department X's Comprehensive Potential Offeror List, 2005-2012."**
- **<u>Market Interest</u>: Survey the identified companies to assess their capabilities, past performance, financial capacity, and interest in doing business with the Government.**
- **<u>Market Assessment Report</u>: Contractor shall provide a report of its findings to the Department within 4 weeks of award. The report shall identify ten (10) companies per commodity area. The report shall be issued electronically in the Microsoft Word format. The report shall identify:**
  - **Current Government Standing**
  - **Past Performance to include three (3) projects completed within the commodity area being assessed within the past five (5) years**
  - **Experience providing services to Belize**
  - **Interest doing work with the Department**



Contract Type??

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Definition Equals Dollars

Pricing without firm requirements

Pricing Summary

Labor			
Labor Category	Total Hours	Rate	Total Price
Administrative Assistant	10.00	$ 20.00	$ 200.00
Project Controller	-	$ -	$ -
Junior Analyst I	-	$ 40.00	$ -
Junior Analyst II	30.00	$ 50.00	$ 1,500.00
Functional Specialist I	-	$ -	$ -
Functional Specialist II	-	$ -	$ -
Business Analyst I	-	$ 60.00	$ -
Business Analyst II	30.00	$ 90.00	$ 2,700.00
Senior Business Analyst I	-	$ -	$ -
Senior Business Analyst II	-	$ -	$ -
Associate I	-	$ 150.00	$ -
Associate II	30.00	$ 175.00	$ 5,250.00
Senior Associate I	-	$ -	$ -
Senior Associate II	30.00	$ 200.00	$ 6,000.00
Managing Director I	-	$ 300.00	$ -
Managing Director II	10.00	$ 325.00	$ 3,250.00
Partner	-	$ -	$ -
Subject Matter Expert I	80.00	$ 350.00	$ 28,000.00
Subject Matter Expert II	-	$ -	
Total Labor	**220.00**		**$ 46,900.00**

Pricing with firm requirements

Pricing Summary

Labor			
Labor Category	Total Hours	Rate	Total Price
Administrative Assistant	10.00	$ 20.00	$ 200.00
Project Controller	-	$ -	$ -
Junior Analyst I	30.00	$ 40.00	$ 1,200.00
Junior Analyst II	-	$ -	$ -
Functional Specialist I	-	$ -	$ -
Functional Specialist II	-	$ -	$ -
Business Analyst I	30.00	$ 60.00	$ 1,800.00
Business Analyst II	-	$ -	$ -
Senior Business Analyst I	-	$ -	$ -
Senior Business Analyst II	-	$ -	$ -
Associate I	30.00	$ 150.00	$ 4,500.00
Associate II	-	$ -	$ -
Senior Associate I	-	$ -	$ -
Senior Associate II	30.00	$ 200.00	$ 6,000.00
Managing Director I	10.00	$ 300.00	$ 3,000.00
Managing Director II	-	$ -	$ -
Partner	-	$ -	$ -
Subject Matter Expert I	-	$ 350.00	$ -
Subject Matter Expert II	-	$ -	
Total Labor	**140.00**		**$ 16,700.00**

Why Such a Drastic Difference?

- **Without clearly defining the requirements, Industry does not know what the Government truly needs**
  - **Depth of the requirement (commodity areas)?**
  - **Specialized expertise requirement (Trade Off) vs. Data provided by the Government (LPTA)?**
  - **Quantity of results?**

- **And when Industry does not know, it prices based on the worst case scenario (scare money)**
  - **Assumption of the highest reasonable number of commodity areas**
  - **Assumption that specialized experience will be required**
  - **Assumption of the highest reasonable number of results**

Alternatively, what are some of the long-term impacts if the government insists on issuing a FFP contract for vague requirements and industry is forced to propose within a certain IGCE?

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Summary

- **Wrap-up**
  - **Evolution of the Better Buying Power (BBP) Initiatives**
  - **Ensuring "Best Value"**
    - **Selecting the Appropriate Methodology**
    - **Employing Appropriate Contract Types**
- **Q & A Session**

For Additional Information

- **Training modules that DAU built for BBP 1.0 can be found here:**
  - **https://acc.dau.mil/CommunityBrowser.aspx?id=491858**
- **Here's the website for the BBP 1.0 modules:**
  - **https://acc.dau.mil/bbptraining**
  - **This site also has a link to the SLAT conference from last Nov on BBP (left hand border).**
- **Note: The 2.0 BBP implementation**

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